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Attorneys for Nichole Mihelich

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA**

Nichole Mihelich v. The Law Offices of Mitchell D. Bluhm & Associates, LLC and Havasu Regional Medical Center	Case No: '12CV2255 H NLS Complaint For Damages Jury Trial Demanded
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INTRODUCTION

1. The United States Congress has found abundant evidence of the use of abusive, deceptive, and unfair debt collection practices by many debt collectors, and has determined that abusive debt collection practices contribute to the number of personal bankruptcies, to marital instability, to the loss of jobs, and to invasions of individual privacy. Congress wrote the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 et seq. (hereinafter “FDCPA”), to eliminate abusive debt collection practices by debt collectors,

- 1 to insure that those debt collectors who refrain from using abusive debt
2 collection practices are not competitively disadvantaged, and to promote
3 consistent State action to protect consumers against debt collection abuses.
- 4 2. The California legislature has determined that the banking and credit system
5 and grantors of credit to consumers are dependent upon the collection of just
6 and owing debts and that unfair or deceptive collection practices undermine
7 the public confidence that is essential to the continued functioning of the
8 banking and credit system and sound extensions of credit to consumers. The
9 Legislature has further determined that there is a need to ensure that debt
10 collectors exercise this responsibility with fairness, honesty and due regard
11 for the debtor's rights and that debt collectors must be prohibited from
12 engaging in unfair or deceptive acts or practices.
- 13 3. Nichole Mihelich, (Plaintiff), through Plaintiff's attorneys, brings this action
14 to challenge the actions of The Law Offices of Mitchell D. Bluhm &
15 Associates, LLC ("Bluhm") and Havasu Regional Medical Center, ("Medical
16 Center"), with regard to attempts by Defendants to unlawfully and abusively
17 collect a debt allegedly owed by Plaintiff, and this conduct caused Plaintiff
18 damages.
- 19 4. Plaintiff makes these allegations on information and belief, with the exception
20 of those allegations that pertain to a plaintiff, or to a plaintiff's counsel, which
21 Plaintiff alleges on personal knowledge.
- 22 5. While many violations are described below with specificity, this Complaint
23 alleges violations of the statutes cited in their entirety.
- 24 6. Unless otherwise stated, all the conduct engaged in by Defendants took place
25 in California.
- 26 7. Any violations by Defendants were knowing, willful, and intentional, and
27 Defendants did not maintain procedures reasonably adapted to avoid any such
28 violation.

JURISDICTION AND VENUE

8. Jurisdiction of this Court arises pursuant to 28 U.S.C. § 1332, 15 U.S.C. § 1692(k), and 28 U.S.C. § 1367 for supplemental state claims.
 9. This action arises out of Defendants' violations of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692 et seq. ("FDCPA") and the Rosenthal Fair Debt Collection Practices Act, California Civil Code §§ 1788-1788.32 ("Rosenthal Act").
 10. Because Defendants do business within the State of California, personal jurisdiction is established.
 11. Venue is proper pursuant to 28 U.S.C. § 1391.
 12. At all times relevant, Defendants conducted business within the State of California.

PARTIES

13. Plaintiff is a natural person who resides in the City of San Clemente, State of California.
 14. Defendant Bluhm is located in the City of Sherman, in the State of Texas.
 15. Defendant Medical Center is Located in the City of Lake Havasu City in the State of Arizona.
 16. Plaintiff is obligated or allegedly obligated to pay a debt, and is a “consumer” as that term is defined by 15 U.S.C. § 1692a(3).
 17. Defendants are persons who use an instrumentality of interstate commerce or the mails in a business the principal purpose of which is the collection of debts, or who regularly collect or attempt to collect, directly or indirectly, debts owed or due or asserted to be owed or due another and are therefore debt collectors as that phrase is defined by 15 U.S.C. § 1692a(6).
 18. Plaintiff is a natural person from whom a debt collector sought to collect a consumer debt which was due and owing or alleged to be due and owing from

- 1 Plaintiff, and is a “debtor” as that term is defined by California Civil Code §
2 1788.2(h).
- 3 19. Defendants, in the ordinary course of business, regularly, on behalf of
4 themselves, or others, engage in debt collection as that term is defined by
5 California Civil Code § 1788.2(b), are therefore debt collectors as that term is
6 defined by California Civil Code § 1788.2(c).
- 7 20. This case involves money, property or their equivalent, due or owing or
8 alleged to be due or owing from a natural person by reason of a consumer
9 credit transaction. As such, this action arises out of a consumer debt and
10 “consumer credit” as those terms are defined by Cal. Civ. Code § 1788.2(f).

11 FACTUAL ALLEGATIONS

- 12 21. Plaintiff is a 29 year old wife and mother of two small children. Plaintiff’s
13 Husband is a Sergeant in the United States Marine Corps currently serving his
14 first tour of duty in Afghanistan in support of Operation Enduring Freedom.
- 15 22. Plaintiff spends her days caring for their two children, ages four and ten, as
16 well as maintaining the household and managing the family finances.
- 17 23. Plaintiff is also working towards the purchase of a home for their family and
18 their finances are being looked over very carefully as part of that process.
- 19 24. On March 21, 2009, Plaintiff’s son was treated at Medical Center for injuries.
- 20 25. At the time, Plaintiff, her sons, and her husband had medical coverage
21 through Tri-Care and the full costs of the services provided by Medical Center
22 should have been paid for by Tri-Care.
- 23 26. However, Medical Center failed to properly and timely file a claim with the
24 insurance company and now seeks to recover the costs from Plaintiff over 3
25 years later as a financial obligation.
- 26 27. These financial obligations were primarily for personal, family or household
27 purposes and are therefore a “debt” as that term is defined by 15 U.S.C.
28 §1692a(5).

- 1 28. These alleged obligations were money, property, or their equivalent, which is
2 due or owing, or alleged to be due or owing, from a natural person to another
3 person and are therefore a “debt” as that term is defined by California Civil
4 Code §1788.2(d), and a “consumer debt” as that term is defined by California
5 Civil Code §1788.2(f).
- 6 29. Plaintiff currently takes no position as to the validity of this alleged debt.
- 7 30. Subsequently, but before July 12, 2012, the alleged debt was assigned, placed,
8 or otherwise transferred, to Bluhm for collection.
- 9 31. On or about July 12, 2012, Defendants mailed a dunning letter to Plaintiff. A
10 few days later, on July 16, 2012, Plaintiff received that letter.
- 11 32. This communication to Plaintiff was a “communication” as that term is
12 defined by 15 U.S.C. § 1692a(2), and an “initial communication” consistent
13 with 15 U.S.C. § 1692g(a).
- 14 33. This communication was a “debt collection” as Cal. Civ. Code 1788.2(b)
15 defines that phrase, and an “initial communication” consistent with Cal. Civ.
16 Code § 1812.700(b).
- 17 34. On July 16, 2012, Plaintiff received a call from Bluhm but was unable to
18 answer because she was driving home from the store. However, Bluhm left a
19 message on her voicemail requesting that she return the call.
- 20 35. Before returning to her home, Plaintiff picked up the mail and saw the July
21 12, 2012 letter sent by Bluhm. The letter stated that Plaintiff owed \$1,804.95
22 to Medical Center for services rendered to her son. The letter went on further
23 to offer two separate reduced payment options.
- 24 36. The July 12, 2012 letter failed to offer any statement regarding Plaintiff’s
25 option to request validation or dispute the alleged debt.
- 26 37. Defendant failed within five days after its initial communication with
27 Plaintiff, to provide written notification containing a statement that unless
28 Plaintiff, within thirty days after receipt of that notice, disputed the validity of

1 the debt, or any portion thereof, Defendant would assume the debt was valid,
2 or failed within five days after its initial communication with Plaintiff to
3 provide a written notice containing a statement that if Plaintiff notified
4 Defendant in writing, within the thirty-day period that the debt, or any portion
5 thereof, was disputed, Defendant would obtain verification of the debt or a
6 copy of a judgment against Plaintiff and a copy of such verification or
7 judgment would be mailed to Plaintiff by Defendant and that Defendant
8 would provide Plaintiff with the name and address of the original creditor.
9 This omission by Defendant violated 15 U.S.C. § 1692g.

- 10 38. On July 16, 2012, only shortly after reading the July 12, 2012 letter, Plaintiff
11 received another call from Bluhm and this time she was able to answer the
12 call.
- 13 39. Plaintiff explained to Bluhm that she had just read the letter and wanted to
14 speak with her insurance company, Tri-Care before discussing the alleged
15 debt with Bluhm further.
- 16 40. Immediately after the call with Bluhm, Plaintiff then spoke with Tri-Care who
17 explained that Medical Center failed to properly process the claim in a timely
18 fashion.
- 19 41. Subsequently, Plaintiff called Bluhm back to discuss the alleged debt. Plaintiff
20 reviewed her discussion with Tri-Care with Bluhm and informed Bluhm that
21 she was disputing the debt. The phone call ended at that point.
- 22 42. On the same day, Bluhm's representative, Corey, called for a fourth time on
23 July 16, 2012. Bluhm inquired about Plaintiff's finances but Plaintiff refused
24 to discuss that information over the phone as she felt it inappropriate and was
25 uncomfortable with the situation because she could not be sure who she was
26 talking to and because she had not had an opportunity to speak with her
27 husband about the situation because he was an active duty Marine, currently
28 on a tour of duty in Afghanistan.

- 1 43. At that point, Bluhm became rude and proceeded to threaten Plaintiff.
2 44. Bluhm told Plaintiff that she could be arrested for not paying the money.
3 45. Through this conduct, Defendant threatened to take action that cannot legally
4 be taken or that is not intended to be taken. Consequently, Defendant violated
5 15 U.S.C. § 1692e(5).
6 46. Because this violated certain portions of the federal Fair Debt Collection
7 Practices Act as these portions are incorporated by reference in the Rosenthal
8 Fair Debt Collection Practices Act, through California Civil Code § 1788.17,
9 this conduct or omission violated Cal. Civ. Code § 1788.17.
10 47. Bluhm also told Plaintiff that that Bluhm could freeze all of Plaintiff's assets
11 until the last dime is paid off and Plaintiff would not have access to anything
12 if she did not agree to pay that day in violation of 15 U.S.C. § 1692e(5) and
13 Cal. Civ. Code § 1788.17.
14 48. Bluhm went on further to threaten Plaintiff that Bluhm could call Plaintiff's
15 husband's commanding officer and tell him about the debt and get him in
16 trouble also in violation of 15 U.S.C. § 1692e(5) and Cal. Civ. Code §
17 1788.17.
18 49. During this fourth call, Plaintiff told Bluhm to stop calling and not to send
19 any letters or communicate in any other manner.
20 50. After the several calls with Bluhm, Plaintiff was severely worried. She noted
21 that her vehicle had one quarter of a tank of gas left.
22 51. Therefore, in fear of not having access to her money, she immediately went to
23 fill up her gas tank.
24 52. Subsequently, despite Plaintiff's request not to be contacted, Bluhm continued
25 to call Plaintiff on July 17, 18, 19, 23, 24, 25, 26, and 27. Plaintiff did not
26 answer any of the calls because she did not have anything further to discuss
27 with Bluhm regarding the alleged debt.

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San Diego, California

- 1 53. On August 3, 2012 Bluhm sent another letter regarding the validation that
2 Plaintiff had requested previous to her cease and desist instruction. A few
3 days later, Plaintiff received that letter.
- 4 54. On August 9, 2012 Plaintiff called Bluhm to insist the Bluhm stop contacting
5 her. Plaintiff spoke with Stacey Shackelford who claimed to be an operations
6 manager and discussed the information she received from Tri-Care regarding
7 he alleged debt. Stacey Shackelford insted to Plaintiff that there was no cease
8 and desist noted in the account, that the August 3, 2012 letter was in response
9 to Plaintiff's request for validation, and that Bluhm had done all it needed to
10 do to validate the debt and that they would not do any further investigation.
- 11 55. Plaintiff informed Bluhm's representative that Bluhm was not to contact her
12 regarding this debt at all and then ended the call.
- 13 56. Plaintiff had been trying to handle this situation on her own and did not want
14 to raise the issue with her husband who needed to stay focused while
15 deployed, but she eventually needed to discuss this alleged debt and Bluhm's
16 collection efforts with her husband.
- 17 57. On August 10, 2012 Plaintiff was able to get in contact with her husband on
18 deployment by email. through several emails they conversed about the
19 situation and discussed what plan of action they should take to resolve this
20 issue which could potentially harm their ability to purchase a home.
- 21 58. As part of an email to her husband, Plaintiff wrote to her husband the
22 following:

23 I'm so stressed right now I seriously cannot deal... we are gonna
24 be with no money and now they are gonna take me to court or
25 get you in trouble at work and this is right before your
26 promotion. With you thousands of miles away this is just too
27 much on my shoulders to worry about lawsuits and jail time
28 what about the kids? I am trying not to cry but this is so hard to
be threatened especially while you are gone. Omg what are we
going to do? I am so sorry baby I am not trying to worry you.

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59. Bluhm's threats and continued harassment led plaintiff believe that she would be left penniless and possibly in jail with no one to care for their children.
 60. On August 13, 2012, Bluhm called Plaintiff again regarding the debt. Plaintiff insisted that Bluhm was not to contact her any further and that they should seek recovery from Tri-Care.
 61. Over the last several months, Plaintiff and her husband have been trying to purchase a home in Temecula, CA.
 62. Plaintiff and her husband have put a deposit down on a house and plan to finance the purchase with a VA (Veteran Affair) loan.
 63. As a condition of the VA loan, Plaintiff and her husband must explain or resolve each and every discrepancy on their credit.
 64. This continued harassment and attempts to collect money that Plaintiff disputes is owed by Plaintiff may cause Plaintiff and her husband to loose the home they chose.
 65. Additionally, Plaintiff's husband is up for a promotion from Sergeant to Staff Sergeant, but if the debt collector follows through with his threats and contacts the Marines, the promotion could be lost.
 66. For the last month, Plaintiff has been living in fear that each day she could wake to find that she cannot access her money, or that she will be arrested.

CAUSES OF ACTION

COUNT I

FAIR DEBT COLLECTION PRACTICES ACT (FDCPA)

15 U.S.C. §§ 1692 ET SEQ.

67. Plaintiff repeats, re-alleges, and incorporates by reference, all other paragraphs.

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1 68. The foregoing acts and omissions constitute numerous and multiple violations
2 of the FDCPA, including but not limited to each and every one of the above-
3 cited provisions of the FDCPA, 15 U.S.C. § 1692 et seq.

4 69. As a result of each and every violation of the FDCPA, Plaintiff is entitled to
5 any actual damages pursuant to 15 U.S.C. § 1692k(a)(1); statutory damages in
6 an amount up to \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A); and,
7 reasonable attorney's fees and costs pursuant to 15 U.S.C. § 1692k(a)(3) from
8 each and every defendant, jointly and severally.

COUNT II

ROSENTHAL FAIR DEBT COLLECTION PRACTICES ACT (ROSENTHAL ACT)

CAL. CIV. CODE §§ 1788-1788.32

12 70. Plaintiff repeats, re-alleges, and incorporates by reference, all other
13 paragraphs.

14 71. The foregoing acts and omissions constitute numerous and multiple violations
15 of the Rosenthal Act, including but not limited to each and every one of the
16 above-cited provisions of the Rosenthal Act, Cal. Civ. Code §§ 1788-1788.32

17 72. As a result of each and every violation of the Rosenthal Act, Plaintiff is
18 entitled to any actual damages pursuant to Cal. Civ. Code § 1788.30(a);
19 statutory damages for a knowing or willful violation in the amount up to
20 \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b); and reasonable attorney's
21 fees and costs pursuant to Cal. Civ. Code § 1788.30(c) from each and every
22 defendant, jointly and severally.

PRAYER FOR RELIEF

24 WHEREFORE, Plaintiff prays that judgment be entered against Defendant, and
25 Plaintiff be awarded damages from Defendant, as follows:

- An award of actual damages pursuant to 15 U.S.C. § 1692k(a)(1);
 - An award of statutory damages of \$1,000.00 pursuant to 15 U.S.C. § 1692k(a)(2)(A);

- An award of costs of litigation and reasonable attorney's fees, pursuant to 15 U.S.C. § 1692k(a)(3);
 - An award of actual damages pursuant to California Civil Code § 1788.30(a);
 - An award of statutory damages of \$1,000.00 pursuant to Cal. Civ. Code § 1788.30(b);
 - An award of costs of litigation and reasonable attorney's fees, pursuant to Cal. Civ. Code § 1788.30(c).

73. Pursuant to the seventh amendment to the Constitution of the United States of America, Plaintiff is entitled to, and demands, a trial by jury.

Respectfully submitted,

Hyde & Swigart

Date: 9/10/12

By: /s/Jessica R. K. Dorman
Jessica R. K. Dorman
Attorneys for Plaintiff

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Nichole Mihelich

(b) County of Residence of First Listed Plaintiff _____
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Hyde & Swigart
 411 Camino Del Rio South Suite 301, San Diego, CA 92108

DEFENDANTS

The Law Offices of Mitchell D. Bluhm & Associates, LLC and
 Havasu Regional Medical Center

County of Residence of First Listed Defendant Grayson, TX
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE
 LAND INVOLVED.

Attorneys (If Known)

'12CV2255 H NLS

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- | | |
|--|---|
| <input type="checkbox"/> 1 U.S. Government Plaintiff | <input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party) |
| <input type="checkbox"/> 2 U.S. Government Defendant | <input type="checkbox"/> 4 Diversity
(Indicate Citizenship of Parties in Item III) |

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
 (For Diversity Cases Only)

- | | | | | | |
|---|--------------------------------|--------------------------------|---|--------------------------------|--------------------------------|
| Citizen of This State | <input type="checkbox"/> PTF 1 | <input type="checkbox"/> DEF 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> PTF 4 | <input type="checkbox"/> DEF 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine Liability	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 395 Property Liability		<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input checked="" type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	SOCIAL SECURITY	
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 950 Constitutionality of State Statutes
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN

(Place an "X" in One Box Only)

- | | | | | | | |
|---|---|--|---|--|---|--|
| <input checked="" type="checkbox"/> 1 Original Proceeding | <input type="checkbox"/> 2 Removed from State Court | <input type="checkbox"/> 3 Remanded from Appellate Court | <input type="checkbox"/> 4 Reinstated or Reopened | <input type="checkbox"/> 5 Transferred from another district (specify) _____ | <input type="checkbox"/> 6 Multidistrict Litigation | <input type="checkbox"/> 7 Appeal to District Judge from Magistrate Judgment |
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Cite the U.S. Civil Statute under which you are filing (**Do not cite jurisdictional statutes unless diversity**):
15 U.S.C. § 1692 et seq.

VI. CAUSE OF ACTION

Brief description of cause:
Unfair Debt Collection Practices

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION
 UNDER F.R.C.P. 23 DEMAND \$ 75,001.00+

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

09/17/2012

s/Jessica R.K. Dorman

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

Print**Save As...****Export as FDF****Retrieve FDF File****Reset**

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I. (a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.C.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

V. Origin. Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553
Brief Description: Unauthorized reception of cable service

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related pending cases if any. If there are related pending cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.